

same as for any program loan of the same type.

(g) *Release from liability.* Release from liability of NP borrowers is not authorized.

[58 FR 52646, Oct. 12, 1993, as amended at 68 FR 7698, Feb. 18, 2003]

§§ 1951.464–1951.467 [Reserved]

§ 1951.468 Liquidation.

When it is determined an NP borrower cannot or will not successfully repay the loan, FmHA or its successor agency under Public Law 103–354 will attempt to have the borrower liquidate voluntarily.

(a) *Voluntary.* If an NP borrower in default indicates a willingness to voluntarily liquidate, other liquidation actions by FmHA or its successor agency under Public Law 103–354 may be delayed for a reasonable period, usually not to exceed 120 days for real estate, if the borrower is earnestly seeking other financing, or has the security property listed or offered for sale and it is being actively marketed at a reasonable price.

(b) *Foreclosure.* If an NP borrower in default (monetary or nonmonetary) does not cure the default and is not willing or able to voluntarily liquidate, the servicing official will refer the case to the next level supervisor with a recommendation for further action. If foreclosure is approved, the account will be accelerated. NP borrowers do not have appeal rights under subpart B of part 1900 of this chapter; however, the NP borrower may request a review of the decision to foreclose by the next level supervisor to consider evidence that the loan is not in default. If the borrower fails to satisfy the account during the period specified in the demand letter, FmHA or its successor agency under Public Law 103–354 will proceed with foreclosure without further notice or extension of time.

(c) *Conveyance to FmHA or its successor agency under Public Law 103–354.* FmHA or its successor agency under Public Law 103–354 does not solicit or encourage conveyance of NP security property to the Government and will consider a borrower's offer to convey by deed in lieu of foreclosure only after the debt has been accelerated and when

it is in the Government's best interest. Release of the borrower from liability is not authorized. Upon receipt of an offer to convey, FmHA or its successor agency under Public Law 103–354 will remind the borrower of provisions for voluntary liquidation under paragraph (a) of this section. The borrower will also be informed of the consequences of a conveyance by deed in lieu of foreclosure as follows:

(1) All costs related to the conveyance which FmHA or its successor agency under Public Law 103–354 pays will be added to the debt;

(2) A credit equal to the market value of the property, as determined by FmHA or its successor agency under Public Law 103–354, less prior liens, will be applied to the debt; and

(3) If the credit does not satisfy the debt, the debtor remains liable for the payment of the account balance and the account will be debt settled.

(d) *Consent to sale of real estate security when the FmHA or its successor agency under Public Law 103–354 debt and authorized selling expenses exceed market value.* If an NP borrower proposes to sell real estate security for an amount which will be insufficient to pay the FmHA or its successor agency under Public Law 103–354 debt, prior lien(s) if any, and sale expenses authorized by FmHA or its successor agency under Public Law 103–354, an appraisal will be completed and FmHA or its successor agency under Public Law 103–354 may consent to the sale if the proposed sale price is not less than the market value. No commission will be allowed or paid under this paragraph when the sale is to the broker, broker's salesperson(s), to persons living in his/her or salesperson(s) immediate household or to legal entities in which the broker or salesperson(s) have an interest if the sale involves FmHA or its successor agency under Public Law 103–354 credit. If credit is not being extended to the persons mentioned in the preceding sentence (a cash sale), a commission will be allowed or paid. In no case will the borrower (seller) receive any cash proceeds from the sale. Any real estate taxes due from the transferor and other authorized selling expenses for which there is insufficient equity proceeds for payment at closing will be charged to

§ 1951.469

the borrower's account prior to loan closing. Authorized selling expenses will not be considered or included in the amount assumed. Release from liability is not authorized.

§ 1951.469 Actions after liquidation of property.

(a) [Reserved]

(b) *Servicing unsatisfied account balances.* A current financial statement will be obtained, if possible, when application of sale proceeds does not satisfy an NP loan; or if a conveyance to FmHA or its successor agency under Public Law 103-354 has been accepted and credit of the market value less prior liens and estimated inventory handling expenses does not satisfy the debt, FmHA or its successor agency under Public Law 103-354 will pursue collection if there appears to be income or assets from which to collect. Where the borrower owns other real estate, or if the borrower is known to be in the process of purchasing other real estate (such as another dwelling), a judgment for the remaining debt including expenses paid by FmHA or its successor agency under Public Law 103-354 will be sought.

(c) [Reserved]

§§ 1951.470–1951.478 [Reserved]

§ 1951.479 Pilot projects.

From time to time FmHA or its successor agency under Public Law 103-354 conducts pilot projects to test concepts related to the management and/or sale of SFH inventory property which may deviate from the provisions of this subpart, but will not be inconsistent with provisions of the authorizing statutes, or other Acts affecting FmHA or its successor agency under Public Law 103-354's loan programs. Prior to initiation of a pilot project, FmHA or its successor agency under Public Law 103-354 will publish in the FEDERAL REGISTER a Notice outlining the nature, scope, and duration of the pilot. The pilot projects may be handled by FmHA or its successor agency under Public Law 103-354 employees and/or under contract with persons, firms, or other entities in the private sector.

7 CFR Ch. XVIII (1-1-07 Edition)

§ 1951.480 [Reserved]

§ 1951.481 FmHA or its successor agency under Public Law 103-354 Instructions.

Detailed FmHA or its successor agency under Public Law 103-354 Instructions for administering this subpart are available in any FmHA or its successor agency under Public Law 103-354 office (FmHA or its successor agency under Public Law 103-354 Instruction 1951-J).

§§ 1951.482–1951.500 [Reserved]

Subpart K [Reserved]

Subpart L—Servicing Cases Where Unauthorized Loan or Other Financial Assistance was Received—Farmer Programs

SOURCE: 50 FR 45777, Nov. 1, 1985, unless otherwise noted.

§ 1951.551 Purpose.

This subpart prescribes the policies and procedures for servicing insured Operating (OL), Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Emergency (EM), Economic Emergency (EE), Special Livestock (SL), Softwood Timber (ST), Economic Opportunity (EO) loans, and Rural Housing loans for farm service buildings (RHF) (referred to as farmer program (FP) loans), when it is determined that the borrower was not eligible for all or part of the financial assistance received in the form of a loan or subsidy granted. It does not apply to guaranteed loans.

[52 FR 26138, July 13, 1987]

§ 1951.552 Definitions.

As used in this subpart, the following definitions apply:

(a) *Active borrower.* A borrower who has an outstanding account in the records of the Finance Office, including collection-only or an unsatisfied account balance where a voluntary conveyance was accepted without borrower being released from liability or where liquidation did not satisfy the indebtedness.